

further, that no railroad company shall be allowed to pass through the city of Baltimore without the consent of the municipal authorities.

City of Annapolis held to have power to terminate franchise granted to interurban railroad by ordinance of 1907 without approval of Public Service Commission. *Duvall Co. v. W., B. & A. Elec. R. Co.*, 60 Fed. (2nd), 315.

This and the following section held to afford the city of Baltimore ample protection if a new street railway company (not provided for by the act of 1906, ch. 566, dealing with the United Railways and Electric Company) should come into the annexed portion of said city. *Baltimore v. U. Rwys. & E. Co.*, 126 Md. 49.

In the light of this section, of sec. 216 and of art. 33A, sec. 6 (as it stood prior to the act of 1914, ch. 463), a railroad company may construct, if necessary, a crossing over a public highway. See notes to sec. 198, and to art. 33A, sec. 1. *Hyattsville v. Washington, etc., R. Co.*, 120 Md. 140.

Since this section affords an adequate remedy for the depreciation of the property of an abutting owner in consequence of the construction of a railroad, equity will not enjoin the construction of the railroad at the instance of such owner. This section provides the remedy for injuries to property not amounting to a "taking" thereof within the meaning of art. 3, sec. 40, of the state Constitution. *O'Brien v. Baltimore, etc., R. R. Co.*, 74 Md. 376. And see *Poole v. Falls Road Ry. Co.*, 88 Md. 533.

This section compared with sec. 206. Under this section, the corporation is responsible for injuries to private property lying *upon or near* the street occupied; hence the right to redress depends upon whether damage was done, and not upon the proximity or distance of the operative cause of the injury. *Lake Roland Co. v. Webster*, 81 Md. 535.

This section held to provide the remedy for injuries to private property incident to the construction and operation of a street railway. *Poole v. Falls Road Ry. Co.*, 88 Md. 541. Cf. *Hodges v. Baltimore, etc., Ry. Co.*, 58 Md. 622.

Where a city ordinance assenting to the construction of a tunnel by a railroad company, provided that if any final judgment recovered under this section was not paid within sixty days, the holder thereof should have the right to enjoin the operation of the railroad, such provision was held to have no application to a judgment growing out of an injury to the plaintiff's private rights for which the railroad company was liable at common law and not under the ordinance, and hence the injunction was refused. *McColgan v. Baltimore Belt R. R. Co.*, 86 Md. 326.

City ordinances when duly passed and duly accepted by the railway company, held to constitute the best evidence obtainable of the agreement provided for by the first portion of this section, and of the terms and conditions upon which the city streets were to be used by the railway. The city of Annapolis held to be authorized by this and the following section, to pass ordinances granting the use of its streets to an electric street railway company. *Jeffers v. Annapolis*, 107 Md. 271.

Suit under this section held to have been improperly withdrawn from the jury, there being sufficient proof of plaintiff's damages. *Webb v. B. & O. R. R. Co.*, 114 Md. 216.

This section referred to in deciding that an abutment and elevated structure built under legislative authority, did not constitute a nuisance. *Garrett v. Lake Roland R. Co.*, 79 Md. 287.

An. Code, 1924, sec. 209. 1912, sec. 274. 1904, sec. 256. 1896, ch. 151, sec. 169A.

212. Sections 206, 209 and 211 shall apply to all roads operated by electricity, cable or other improved motive power, and whether incorporated under the provisions of this article or by a special act, and whether the property proposed to be condemned is situated in one of the counties of this State, or in the belt or annexed portions of Baltimore City, where streets and alleys have not been opened and occupied as city streets.

See notes to secs. 206 and 211.

An. Code, 1924, sec. 210. 1912, sec. 275. 1904, sec. 257. 1888, sec. 170. 1876, ch. 242, sec. 14.

213. Such corporation may demand and receive for the transportation of passengers on said road not exceeding three cents per mile, and for the transportation of property on said road, other than coals, ores or other minerals, not exceeding five cents per ton per mile, but such corporation shall not demand or receive, for the transportation of coals, ores or other minerals, a rate exceeding one and a half cents per ton per mile.

This section has no reference to the construction of street railways for passengers. *Hodges v. Baltimore, etc., R. R. Co.*, 58 Md. 622.

This section refers only to railroad companies incorporated under the general law; it has no application to the Cumberland and Pennsylvania Railroad Company; *State v. Consolidation Coal Co.*, 46 Md. 13.

See secs. 370, 381 and 395.